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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/666,058

09/18/2003

Randy Clinton Giles

Giles 71-7-16-9

7700

7590

07/14/2005

Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2950

EXAMINER

STULTZ, JESSICA T

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/666,058

Applicant(s)

GILES ET AL.

Examiner

Jessica T. Stultz

Art Unit

2873

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED July 5, 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

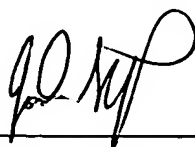
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 13, 37 and 38.
Claim(s) rejected: 1-12, 14-32, 34, 36 and 39.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

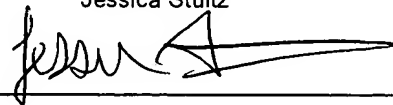
8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.



Jessica Stultz



Continuation of 13. Other: For applicant's information, the amendment to claim 28 overcomes the previous objection to this claim.

Although the amendments to the claims do not require a new search, the final rejection still stands for the reasons stated in the following paragraphs.

Applicant's arguments filed July 5, 2005, regarding the 102 rejections of independent claims 1, 28, 30, 31, and 32 over Solgaard have been fully considered but they are not persuasive. Specifically, applicant argues that Solgaard does not disclose an array of reflective elements, specifically wherein the number of reflective elements exceeding the number of channels. However, Solgaard does disclose an array of reflective elements, wherein the number of elements exceeds the number of channels. Specifically, Solgaard discloses three channels (Section 42, wherein the channels are "12a-c", Figure 1), wherein each channel is directed to an array of reflective elements (Sections 42-43, wherein the channels are directed to layers "18a-c", which include arrays, "48a" and "48b", Figures 1-3), specifically wherein each array includes three to six reflective elements, therefore the total number of reflective elements exceeding the number of channels (Sections 42-43, wherein the reflective elements are mirrors "46a-f", wherein there are three reflective elements in each array of layer "18a" and therefore a total of six reflective elements in each layer and 18 elements total, Figures 1-3). Therefore the arrays include more reflective elements than the number of channels. Regarding the argument that Solgaard does not disclose two or more reflective elements of the array rotated to reflect a single channel, the examiner disagrees. Nevertheless, this is not a specific limitation of the claim, rather it is claimed, "at least two reflective elements being controllable to be positioned in said one or more intermediate positions to effect a desired output of said particular channel beam" (see claim 1 and similar limitations in the other independent claims). Solgaard does disclose at least two reflective elements being controllable to be positioned in said one or more intermediate positions to effect a desired output of said particular channel beam (Sections 42-43, wherein the reflective elements "46a-f" tilt to couple the beams from ports "14a-c" to output ports "24a-c", Figure 1-3).